EDITOR'S NOTE

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SUPREME COURT OF THE UNITED STATES

TEXAS ASSOCIATION OF CONCERNED TAXPAYERS, INC. *v.* UNITED STATES

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 85–1262. Decided May 27, 1986

The petition for a writ of certiorari is denied.

JUSTICE WHITE, with whom JUSTICE BRENNAN joins, dissenting.

Petitioner Texas Association of Concerned Taxpayers challenges the Tax Equity and Fiscal Responsibility Act of 1982, 96 Stat. 324 (TEFRA), on the ground that it was enacted in violation of the Origination Clause of the United States Constitution, which provides that "[a]ll Bills for raising Revenue shall originate in the House of Representatives." Art. I, § 7, cl. 1. Specifically, the petitioner asserts that when the bill originated in the House of Representatives, it was not a "bill for raising revenue" within the meaning of the Origination Clause because the net effect of the bill would have been to reduce the amount of revenue collected.

The United States Court of Appeals for the Fifth Circuit held that this issue was a nonjusticiable political question. 772 F. 2d 163, 165–167 (1985). This holding conflicts with the Ninth Circuit's explicit holding with respect to an identical challenge to TEFRA that the Origination Clause issue was in fact justiciable. See *Armstrong* v. *United States*, 759 F. 2d 1378, 1381–1382 (1985). See also *Wardell* v. *United States*, 757 F. 2d 203 (CA6 1985) *(per curiam)* (adjudicating same claim on the merits); *Heitman* v. *United States*, 753 F. 2d 33 (CA6 1984) *(per curiam)* (same). The Fifth Circuit's holding is also in tension with this Court's decision in *Flint* v. *Stone Tracy Co.*, 220 U. S. 107, 142–143 (1911), in which we also adjudicated an Origination Clause challenge to a statute. To resolve this conflict among the circuits, I would grant certiorari.